

No. 8132-3-Lab-68/21818. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and management of M/s Panipat Co-operative Sugar Mills Limited, Panipat :

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 92 of 1967

between

SHRI JAGMOHAN LAL WORKMAN AND THE MANAGEMENT OF M/S PANIPAT CO-OPERATIVE SUGAR MILLS LIMITED, PANIPAT

Present. -

Shri Raghubir Singh, for the workman.

Shri Isa Dass, for the management.

A W A R D

Shri Jagmohan Lal was in the service of M/s Panipat Co-operative Sugar Mills Limited, Panipat. His services were terminated on the ground that he was employed for the duration of season only. He felt aggrieved by reason of the termination of his services because according to him he was a permanent employee. This gave rise to an industrial dispute. The boiler collies employed by the management were also kept on temporary basis and they were agitating for being made permanent. This also gave rise to an industrial dispute. The Governor of Haryana in exercise of the powers conferred on him by clause (c) of sub-section (1) of section 10 read with the proviso to that sub-section of the Industrial Disputes Act, 1947, referred both these industrial dispute as reproduced below for adjudication to this Court :

- (1) Whether the termination of services of Shri Jagmohan Lal, Accounts Clerk, is justified and in order? If not, to what relief is he entitled?
- (2) Whether Boiler Collies be made permanent? If so, with what details?

On receipt of the references usual notices were issued to the parties in response to which the aggrieved workman Shri Jagmohan Lal as also the boiler Collies filed their statements of claim through the Panipat Sugar Mill Mazdoor Sabha, Panipat, and the management filed their written statement.

So far as the claim of boiler Collies for being made permanent is concerned, a compromise has been effected between the parties. Shri Isa Dass, General Manager of the respondent mill has made a statement that it has been decided to make eleven posts of boiler collies permanent in about four months time. He stated that the following six boiler collies being senior most are being continued even during the off season without any break in their service and would be made permanent :-

- (1) Shri Mehtab Singh, son of Bhagwan Singh.
- (2) Giani, son of Shiv Nath.
- (3) Hukmi, son of Jhopar.
- (4) Man Singh.
- (5) Chander Bhan.
- (6) Ram Chander, son of Rulia.

Shri Isa Dass further stated that the following nine boiler collies were appointed on 4th December, 1957—

- (1) Ragbira.
- (2) Mai Chand, son of Chotu.
- (3) Sohan Singh.
- (4) Baljit, son of Siri Chand.
- (5) Chotu Ram.
- (6) Duli Chand.
- (7) Phoja Singh.
- (8) Indra Singh.
- (9) Salig Ram.

Shri Isa Dass stated that since it has been decided to make permanent only eleven posts of boiler collies it has been decided that the work of the above named nine boiler Collies would be watched and the five boiler collies out of them would be selected for being made permanent. He stated that at the time of making the selection of these five boiler collies, the representative of the Union would be taken into confidence and the decision would be made after discussing the matter with him. Shri Raghubir Singh, General Secretary of the Panipat Sugar Mill Mazdoor Sabha, Panipat, who is representing the workmen accepted the terms offered by the General Manager as reproduced above. In view of the statement of the parties I hold that only eleven posts of boiler collies would be made permanent in about four months time and that Sarvshri :

- (1) Shri Mehtab Singh, son of Bhagwan Singh.
- (2) Giani, son of Shiv Nath.

- (3) Hukmi, son of Jhopar.
- (4) Man Singh.
- (5) Chander Bhan.
- (6) Ram Chander, son of Rulia.

Would be made permanent and out of remaining nine boiler collies appointed on 4th December, 1957, and whose names are given above the management would be entitled to watch their work and make the selection after discussing the matter with the representative of the Union.

As regards the claim of Shri Jagmohan Lal, it was submitted on behalf of the management that he was appointed as an accounts clerk on purely temporary basis. It was alleged that he was neither confirmed nor he had lien over the post which he held temporarily. According to the management the duties of the claimant were purely and of seasonal nature and therefore he could not be absorbed against any permanent post. The following issues were accordingly framed to adjudicate up on the claim of Shri Jagmohan Lal :

- (1) Whether the claimant Shri Jagmohan Lal was appointed on a purely temporary basis and his duties are of a seasonal nature and for this reason the termination of his services was justified and in order ?
- (2) If not to what relief is he entitled ?

Issue Nos. 1 and 2. The case of the claimant Shri Jagmohan Lal is that he was appointed as an accounts clerk, —vide appointment letter dated 22nd/24th July, 1963, copy Ex. W. W. 1/2 on probation for six months in the first instance on the salary of Rs 112 per mensem in the grade of Rs 87—4 -107-EB-5—132 plus Rs 25 as Dearness Allowance. It is alleged that the claimant satisfactorily completed his probation period and remained in continuous service till 24th May, 1965, when he was informed by the management that since he was a seasonal employee his services were no longer required but he was not even called for duty during the season of 1965-66 and 1966-67. It is alleged that the claimant had become permanent under clause IV of the certified standing orders of the respondent mill.

In my opinion the claim of the applicant is correct and it is not possible to hold that he was only a seasonal employee. Shri C. K. Gupta M. W. 2 Chief Chemist of the respondent mill was the General Manager of the Mill till August, 1967, he has stated that the claimant Shri Jagmohan Lal was appointed sometimes in the year 1963 as a seasonal worker. He admits that in the letter of appointment given to him, it is neither mentioned that the applicant was appointed for season nor it is mentioned that he was appointed on permanent basis. He admits that the claimant was appointed on probation and after the expiry of the period of probation no order was given to him that he had been confirmed nor he was informed that he could not be confirmed because he was appointed only for the duration of the season. On the other hand he finds that clause No. (iv) of the letter of appointment specifically provide that on the successful completion of the period of probation the claimant would be entitled to be confirmed. It has not been explained on behalf of the management how in the face of this letter of appointment the claimant can be considered to have been appointed for the duration of season only. It is not the case of the management that the appointment letters of the type of Ex. W. W. 2/1 are given to all seasonal workers. Moreover as already pointed out the services of the claimant were not terminated after the expiry of the season. On the other hand he was kept in service continuously from July, 1963 till 19th June, 1964, i.e., for almost full one year. Shri Isa Dass the General Manager in his statement dated 26th April, 1968, which he gave at the time of closing the case of the management admitted that he had seen the list of the seasonal staff retained during the off season for the year ending 30th June, 1964, and that the name of the applicant does not appear in that list. He stated that the name of the applicant might have been left by oversight but it is not possible to accept this view. The claimant in his statement has explained that he was not aware of the order dated 19th June, 1964, and that when he presented himself at mill gate on 22nd June, 1964 he was not allowed to mark himself present and so he made a representation that he should be allowed to work and he was permitted to resume duty with effect from 25th June, 1964. If the version of the management is correct that the claimant Shri Jagmohan Lal was a seasonal worker and his services were terminated on 19th June, 1964, because the season had ended, there was no point in re-employing him with effect from 25th June, 1964. It is not the case of the management that the applicant became surplus on 19th June, 1964, and even before the expiry of a week the claimant had to be recalled because the work suddenly increased. The claimant in his evidence states that the management did not pay him his salary from 22nd June, 1964 to 24th June, 1964 only and that he made a representation Ex. W. W. 2/2 against this deduction. In case the claimant had been appointed for the duration of season only he would have been immediately informed that his services had been terminated on 19th June, 1964, because he had been appointed for the duration of season only. This was not done. On the other hand the suggestion given to the claimant during his cross-examination is that his services were terminated because he misbehaved with Shri Talwar the then Superintendent of Accounts and the claimant denied this suggestion also. From all these facts it is abundantly clear that the claimant Shri Jagmohan Lal was never employed as a seasonal worker. As his letter of appointment copy Ex. W. W. 2/1 shows he was employed on probation for a period of six months in the first instance and according to the terms of this letter of appointment he was entitled to be confirmed on the successful completion of his period of probation. The proviso to clause (iv) of the standing order under the heading 'B' -Classification of workmen provides that if after the expiry of the period of probation no order is passed by the management the probationer is deemed to have been confirmed. The question as to whether the claimant Shri Jagmohan Lal is deemed to have been automatically confirmed under the provisions of the certified standing Orders can not be decided in these proceedings because there is no evidence that the post against which the claimant was appointed was of a permanent nature but this much is obvious that the management have not proved that the claimant was a seasonal worker. Hence it can not be held that the termination of the services of the claimant on 24th May, 1965, without giving him any notice to show cause can not be said to be justified or in order. He is entitled to be reinstated with full back wages in continuity of service.

Dated 8th August, 1968.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. 1479, dated the 19th August, 1968.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department s Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

Dated the 8th August, 1968.

No. 8938 3Lab-68/21820.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act, No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and management of M/s Rohtak Delhi Transport (P) Ltd., Rohtak :—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 27 of 1968

between

SHRI KRISHAN LAL SEHGAL AND JIWAN DASS WORKMEN AND THE MANAGEMENT
OF M/S ROHTAK DELHI TRANSPORT (P) LTD., ROHTAK.

Present :—

Shri S. N. Vats, for the workman.

Shri Chanchal Singh, for the management.

AWARD

Sarvshri Krishan Lal Sehgal and Jiwan Dass were in the service of M/s Rohtak Delhi Transport (P) Ltd., Rohtak. Their services were terminated and this gave rise to an industrial dispute. The President of India, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court, for adjudication,—*vide* Government Gazette Notification No. ID/RD/43-A/68, dated 11th March, 1968.

Whether the termination of services of Sarvshri Krishan Lal Sehgal and Jiwan Dass was justified and in order? If not, to what relief are they entitled?

On receipt of the reference usual notices were issued to the parties. On the date fixed the representative of the workman made a statement that Shri Krishan Lal Sehgal was not interested in pursuing his case and the statement of claim on behalf of Shri Jiwan Dass alone was filed and the issues which arose from the pleadings of the parties were framed and part evidence of the management was recorded. Thereafter a compromise with regard to the claim of Shri Jiwan Dass was also effected between the parties and Shri Jiwan Dass also relinquished his claim for reinstatement on receipt of Rs 700.

Since the workman have not produced any evidence in support of their claim, it must be held that the termination of their services was not unjustified. I give my award accordingly. No order as to cost.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

Dated 8th August, 1968.

No. 1478, dated the 19th August, 1968

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

Dated 8th August, 1968.

No. 7487-3Lab-68/21363.—In partial modification of Haryana Government Notification No. 3199-3Lab-68/9482, dated the 9th April, 1968, and in exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947, the Governor of Haryana is pleased to appoint the following officers also to be Conciliation Officers, charged with the duties of mediating in and promoting the settlement of industrial disputes in respect of all the industries in the State of Haryana :—

1. The Implementation Officer in the office of the Labour Commissioner, Haryana; and
2. The Labour Officer-cum-Conciliation Officer, Karnal.

R. I. N. AHOOJA,